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Parliament.

Town holdings

London

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TOWN HOLDINGS

FURTHER REPORT OF COMMITTEE

APPOINTED DECEMBER 15, 1886

10th December, 1889.

TOWN HOLDINGS.

FURTHER REPORT OF COMMITTEE APPOINTED ON THE 15TH DECEMBER, 1886.

Names of Committee.

Mr. E. HORSMAN BAILEY.	Mr. G. B. GREGORY.
✓Mr. R. MELVILLE BEACHCROFT.	✓Sir RICHARD NICHOLSON.
✓Mr. H. T. BOODLE.	✓Mr. WALTER S. PRIDEAUX.
✓Mr. JOHN R. BOURNE.	✓Mr. JOHN WATNEY.
✓Mr. CHARLES CHESTON.	✓Mr. N. T. LAWRENCE.

WE have now to make our report as to the progress of the business entrusted to us since the meeting held at the Inns of Court Hotel on December 17, 1888.

The Digest of the evidence taken before the Select Committee of the House of Commons during the Session of 1888 was published and circulated by us early in the Session of 1889.

The Select Committee on Town Holdings was on February 22, 1889, reappointed by the House of Commons by an Order in the following terms :—

“ That the Select Committee be reappointed to inquire into
“ the terms of occupation and the compensation for improve-
“ ments possessed by the occupiers of town houses and hold-
“ ings in Great Britain and Ireland; and to inquire into the
“ expediency of giving leaseholders facilities for the purchase
“ of the fee-simple of their property; and also into the question
“ of imposing a direct assessment on the owners of ground-rents,
“ and on the owners of increased values imparted to land by
“ building operations or other improvements.”

On Thursday, March 21, it was ordered that the Select

Committee should consist of twenty-five members, and the following were nominated to serve, viz.:

Mr. ARTHUR ACLAND.	Mr. LEWIS FRY.
Mr. AMHERST.	Mr. HEATH.
Mr. BARTLEY.	Sir HENRY JAMES.
Mr. BAUMANN.	Mr. KNOWLES.
Mr. BEADEL.	Mr. COMPTON LAWRENCE, Q.C.
Mr. BIGGAR.	Mr. LAWSON.
Mr. CONYBEARE.	Mr. MACARTNEY.
Mr. CHANNING.	Sir WILLIAM MARRIOTT.
Mr. STORMONT DARLING.	Colonel NOLAN.
Sir JOHN WHITTAKER ELLIS.	Mr. JAMES ROWLANDS.
Mr. THOMAS ELLIS.	Mr. SEALE-HAYNE.
Mr. ELTON, Q.C.	Viscount WOLMER.
Dr. FOX.	

At their first sitting, on March 26, 1889, Mr. LEWIS FRY was again called to the chair, and the Select Committee adjourned till April 9, when three draft Reports, one by the chairman, a second by Mr. H. L. W. Lawson, and a third by Mr. Lees Knowles, were read a first time. The Select Committee then adjourned for consideration of the Reports until May 3.

Meantime the Leasholds Enfranchisement Bill, which was identical save in name with Mr. Lawson's Leaseholders (Purchase of Fee-simple) Bill of the previous Session, had been re-introduced by him into the House of Commons, and stood first on the Orders of the Day for second reading on May 1, 1889. Four notices of motion had appeared in relation to the Bill—three for its rejection, by Sir William Marriott, Mr. Ambrose, Q.C., and Mr. Giles respectively, and one by Lord Lymington, which stood before the other three, and was in the following terms:—

“That the House declines to consider the question of Leasehold Enfranchisement until it has had an opportunity of considering the Report of the Committee appointed to inquire into the subject of Town Holdings.”

We prepared and circulated Reasons against the second reading of the Bill.

When the Bill came on for debate, it was introduced by Mr. Lawson, who relied upon the Supplemental Report of the Royal Commission on the Housing of the Working Classes in 1884, a copy of which was printed in a memorandum prefixed to the Bill. On the motion of Lord Lymington, which his lordship supported in an able speech of nearly two hours, the House of Commons rejected the Bill by a majority of 29, the numbers being—for the second reading, 157; against, 186.

With respect to the division, it is to be noted that, while the Government opposed the Bill, nearly all the members of the Front Opposition Bench voted in its favour.

The SELECT COMMITTEE, at their meeting of May 3, divided on the question which of the three draft Reports before them should be adopted as the basis of their final Report. In the division, 10 members voted for the adoption of the Chairman's draft Report, 7 for that of Mr. Knowles, and 6 for that of Mr. Lawson. The three draft Reports, having been read a first time, have been printed in the Blue Book of 1889, and we beg to call special attention to that of Mr. Knowles, at pages 99 to 145, as being a masterly exposition of the evidence given before the Select Committee, and of the principles involved in their inquiry. It will amply repay perusal on the part of members of Parliament and others interested in the questions of which it treats. Professional men dealing with building land and urban property will find in it a most able and exhaustive summary of the methods of the various building systems of England, and of the arguments for and against the legislative proposals referred to the Select Committee on Town Holdings.

On the Chairman's draft Report the Select Committee met twelve times, and at these twelve sittings no less than 169 divisions were taken on the various questions debated and amendments moved. After a whole Session had been occupied in its consideration, the Report was at last completed. It bears date July 12, 1889.

It refers to Ireland as well as to England, but in our present paper we refer to it only so far as it deals with England.

The REPORT divides the consideration of the evidence into our main heads, viz.:—

I. Building tenures and their distribution.

II. Terms of occupation, and compensation for improvements.

III. The expediency of giving leaseholders facilities to purchase the fee.

IV. Recommendations.

I. The statement of the *building tenures and their distribution* sums up the facts already set out in the Digest of Evidence of 1887, and states the conclusions there arrived at, without any attempt to explain the different methods and principles of each building system.

II. As to the *terms of occupation*, the Report finds that "in most towns, especially in the central parts of large towns, only a small proportion of the occupiers are the owners of the houses they inhabit," and, after detailing evidence as to the proportion of owners to occupiers, comes to the conclusion that in the case of the better class of houses, of localised industries, and where building has recently taken place, the proportion of occupying owners is greater than elsewhere.

The Report then proceeds to deal with the question of *compensation for improvements*, and finds that occupiers, except by agreement, have now no legal right to compensation for improvements made by them; and that, although the increase in value of the premises is too much attributed by the tenants to the improvements made by them, and although their claims in this respect are frequently considered by landlords in fixing terms of renewals, still rents are commonly raised by them in consequence of improvements by tenants.

As regards *goodwill*, the Committee find that, with a few exceptions, its value is not considered in fixing rents on renewal, but that a valuable goodwill gives the landlord considerable power to settle the terms of renewal in his own favour.

They next point out that the alleged hardships as to improvements and goodwill are not peculiar to the leasehold system,

but arise in all tenancies, and are due to the severance of occupation from ownership, and that alterations other than sanitary improvements are often useful merely for the occupier's own purposes. As to goodwill, the Committee conclude that it would be difficult to say how much of its value belongs to the site, how much to the person of the trader—who can easily get premises elsewhere and take his trade with him—and point out the unfairness of compensating a tenant for the alleged increase in the value of premises, which would be lost on the failure of the next tenant to carry on a profitable business there. The Report then refuses to recommend compensation under existing contracts for any except sanitary improvements; but, in future contracts, suggests that compensation ought to be given for tenants' improvements *bona fide* made for the purposes of trade or business, and which add to the permanent letting value of trading or business premises, when such improvements are made with full notice to the landlord, who, however, should have power to stop them where they are likely to be injurious to him. At the same time, the Committee state that they feel the difficulty and complexity of the subject, and are not prepared to do more than record their opinion that a carefully framed measure, based on the above principles, would probably be a public advantage.

III. The Committee then proceed to consider Leasehold Enfranchisement.

After a clear and succinct review of the advantages and objections urged for and against Leasehold Enfranchisement, the Committee state that the evidence does not enable them to come to the conclusion that the power of enfranchisement will be generally taken advantage of by lessees, especially if it is coupled with provisions, as in fairness must be the case, to secure to the reversioner both the value of his property and compensation for any injury he may sustain by its being taken from him.

They also report that such a measure will in many cases prolong the existence of old houses which ought to be pulled down, and which under the leasehold system would probably have been rebuilt on the dropping in of the leases; that it will

discourage or prevent many improvements of a more or less public character, which are undoubtedly frequently effected by the owners of large leasehold estates when their property falls in hand, and which would probably not have taken place at the expense of the ratepayers.

They add that it would interfere with the encouragement sometimes given by such owners to the creation of industrial dwellings, by granting sites for such buildings on liberal terms, and that it would imperil the security at present enjoyed by the holders of leases on a well-managed estate, through the power and interest of the ground landlord in enforcing covenants which are for the general benefit.

They also attach much importance to the effect which enfranchisement may have in depriving municipal corporations and public charities of the prospective improvement in the value of their estates, and in some cases of seriously diminishing their present income, and add that it is possible that in some of these cases important benefits may be lost to the community for the advantage of a comparatively limited number of individuals.

They point out the very extended scope of the proposed scheme of enfranchisement, which subjects the owners of ground-rents and reversions in leasehold property throughout the country to the liability of having their property compulsorily taken from them at any time during a long period, and of being deprived of it piecemeal as may suit the convenience of the several lessees.

They express their opinion that the scheme is unprejudiced and one-sided, that it can only benefit the community indirectly by transferring property compulsorily from one individual to another; that a feeling would widely prevail among those affected that their rights had been unjustly interfered with and needlessly disturbed; and that the persons chiefly affected would not be only the large landowners, but the much more numerous class of persons, often of very moderate means, who are in the habit of investing in ground-rents and reversions in house property. They call attention to the repeated trouble, annoyance, and expense caused to owners in the settlement of each case, and the successive reinvestments of each portion of the purchase-money; and add that the statements of experienced

witnesses leave no doubt on their minds that the measure will seriously lessen the desirability, and thus diminish the value, of the class of property affected by it. They point out the hardships to owners of mortgaged property by such a measure inducing mortgagees to call in their money, and consider it clear that the liability which mortgagees would be under of receiving back their investments in small and uncertain payments would seriously interfere with the power of raising money upon such property on reasonable terms; and that injury to the property affected by a general enfranchisement measure will arise from the uncertainty and insecurity which it will introduce, even though in the result the powers of the Act might not be very largely made use of.

The Committee conclude that they are doubtful whether the measure would be generally taken advantage of by lessees, and doubt whether it is calculated to confer much benefit on the industrial classes, in whose interest it has been chiefly advocated, inasmuch as the majority of the working-class occupiers would not be within its provisions, and as regards whom the principal effect of such an Act would be to convert the middleman under whom they hold into a freeholder.

IV. *Recommendations.*

Local Application of Enfranchisement.

The Committee then continue as follows:—

“ While we are unable to recommend the adoption of any general scheme of compulsory leasehold enfranchisement such as those which have been proposed to us, we are of opinion there are places where some plan for facilitating the acquisition by leaseholders of the freehold of their houses might with advantage be put into operation as regards limited areas, in which there are a large proportion of occupying leaseholders of the industrial classes (including clerks and small traders) who are able and willing to purchase the reversion of their properties. No proposal for such a local application of the principle of enfranchisement has been laid before us; but a consideration, on the one hand, of the disadvantages of the existing state of things, which are un-

" doubtedly very strongly and generally felt in some localities, " and, on the other hand, of the injury and disturbance of rights " which would, we believe, ensue from any scheme of universal " application such as suggested, leads us to the belief that the " best practical solution of the important question of how to " enable the classes above mentioned to become more generally " owners of their homes is likely to be found in the exercise " by local bodies of powers to be conferred upon them under " certain defined circumstances. For instance, if it should " appear that there are areas occupied exclusively, or very " largely, by the dwellings of these classes, where the majority " of the occupiers are leaseholders and are desirous of purchasing " the freehold of their houses; and if in such cases the local " authority should be of opinion that habits of thrift and industry " would be promoted, and the prosperity of the district enhanced " by enfranchisement, and should have reasonable grounds for " believing that the powers to be conferred upon them could be " exercised without loss, we think the local authority might " properly be empowered to acquire by agreement, or, if necessary, " by compulsory purchase, the reversionary interests in the " property within the area in question, and to sell the reversions " of their houses to such of the occupying householders as had " agreed to enfranchise, either at a price paid down at once or " payable in instalments over a period of years. The part of " the property not so disposed of the authority should be " empowered either to sell (subject to the right of pre-emption " to the original owner being reserved) by public auction or by " public tender, or to retain at its discretion. It might be " proper that the exercise of these powers on the part of the " local authority should be preceded by an inquiry under the " direction of the Local Government Board.

" Although we are conscious that there are many objections " which may be made to this plan, and that difficulties would " probably attend its practical operation, yet we consider that " it would be free from some of the gravest objections which, in " our judgment, attach to any enfranchisement scheme in- " discriminately applied to the whole country. It would greatly " diminish, if not entirely remove, the risk of subjecting the

" owners of ground-rents and reversions to the constant liability " to the piecemeal purchase of their property; it would greatly " reduce the difficulties arising in connection with compensation " for severance, and the costs both of ascertaining the interests " of the freeholders and other reversioners, and of investigating " their titles, and it may be assumed that optional powers of the " kind described would not be put in force to the detriment of " the community by interfering with the interests, either " present or prospective, of municipal corporations or public " charities.

" The application of a process of the kind proposed would " also be gradual, and to some extent tentative, and would, in " our opinion, be likely to afford valuable evidence upon the " prevalence among the industrial classes of a desire to purchase " the freehold of their houses, upon their ability to do so, and " upon other questions connected with this branch of our inquiry, " which are at present largely matters of speculation.

" The Committee therefore recommend to Parliament the " adoption of a measure for empowering local authorities to " facilitate enfranchisement in the manner already described."

Other Recommendations.

" The Committee here repeat their recommendation of a " measure to provide for the commutation of leases for lives into " fixed terms.

" They also make the following recommendations for legisla- " tion of a limited character, which their inquiry has led them " to believe would be of public advantage.

" There has been a considerable amount of evidence given " from some parts of the country of the difficulty experienced by " Nonconformist bodies in obtaining a secure tenure of their " places of worship and schools connected with them, and of this " being frequently felt to be a great hardship. The Committee " think that it is most desirable, on public grounds, that all " religious bodies should be enabled to obtain a secure tenure of " such places of worship and schools, and they consider that the " freeholder who has granted land for such a purpose has no " good reason to object to its being so held in perpetuity on his

" receiving the value of his interest. They therefore recommend that all religious bodies to whom land has been granted on lease by the freeholder for the erection of their places of worship and schools should be empowered to purchase the fee, subject to the payment of fair compensation.

" The Committee are of opinion that similar powers to those which it is proposed above to grant to religious bodies might reasonably be granted to public educational bodies (not already possessing the requisite powers) when it is clear that they are acting in the public interest.

" The position of registered co-operative and provident societies has been discussed earlier in the Report. The Committee recommend that similar powers should be extended to them in respect of their halls and other buildings.

" The Committee are also of opinion that public authorities and corporations should have the power to procure the enfranchisement of any house or building required for purposes of public or general utility, on the ground that security of tenure in these cases is of great importance to the community.

" The Committee also think that the powers of tenants for life of estates under settlement in respect of grants of land for building purposes might with advantage be enlarged. At present the powers of such tenants for life ordinarily extend to leases for 99 years only, though leases for longer terms or grants in fee-farm may be made under a special usage, or with the sanction of the Court, on a case being made out showing that, from local circumstances, powers to this effect are necessary or desirable for the benefit of the estate.

" The Committee think that every encouragement should be given to the granting of building leases for longer terms than 99 years, as well as to making grants in fee-farm; and also that the tenants for life should be enabled to grant leases with the option of purchasing the freehold. They therefore recommend that the powers of tenants for life to grant leases for 99 years should be extended to terms of any length, and to perpetual grants in fee-farm (without in either case the necessity of applying to the Court), and also to granting leases with the option of purchasing the freehold.

" The Committee further recommend legislation to secure to tenants, whether under existing or future contracts, the right to compensation at the expiration of the lease, on an equitable basis, for alterations made for improving the sanitary condition of their premises.

" They also recommend that a right to compensation at the expiration of the lease shall be given to tenants, under existing and future contracts, for material improvements made with the previous written consent of the landlord, as before indicated."

Notwithstanding the Report of the Select Committee on Town Holdings, *Leasehold Enfranchisement Bills* will undoubtedly be brought into Parliament next session. There is no reason to think that the Leaseholds Enfranchisement Association or the other promoters of such measures intend to abandon their schemes. On the part of those who are opposed to them continued exertions are still required if disastrous legislation is to be averted.

The question of imposing a direct assessment on the owners of ground rents and building land, which was one of the subjects referred by the House of Commons in 1886 and the two subsequent Sessions to a Select Committee, has not yet been made the subject of a Report. It will doubtless be referred to a Select Committee in the Session of 1889.

Meantime these questions are being freely and constantly discussed in the newspapers and at political gatherings and the meetings of public bodies, and especially at the London County Council.

The United Committee for the Taxation of Ground-rents and Land Values is circulating leaflets and other publications in favour of legislation, and a pamphlet written by Mr. Fletcher Moulton, Q.C., has recently been issued by them, which urgently calls for a reply.

The Session of 1890 will clearly require from us exertions at least equal to those of 1886, 1887, and 1888. As each year succeeds the attacks on the rights of property in urban districts

are renewed with unabated or increased vigour, and it behoves those who are interested in such property to unite for defence.

Some permanent Association, formed for this purpose, is greatly to be desired. In the meantime, and until some such body has been formed, we ask that we may be supported in our efforts, which, honourable and imperfect as they necessarily are, have not been without beneficial result.

We therefore ask for continued confidence and renewed and additional subscriptions, and for the assistance of gentlemen able and willing to give evidence.

In Scotland, the task of presenting to the Select Committee evidence respecting the proposals to impose additional taxation on ground rents and building land has been undertaken by an Association, which is willing to co-operate with us through its Secretary, Mr. Peacock Edwards, of 5 Albyn Place, Edinburgh.

We conclude this our Report with a summary of the course which we recommend, viz.:—

1. That we should be authorised to continue our work, as explained in this Report, until the end of the Session of 1890.
2. That further donations be invited to defray the cost already incurred, and the further expense to be incurred during the year 1890, and that such sums be paid as heretofore to the Treasurers of the fund, Mr. Henry Trelawny Boodle and Sir Richard Nicholson, to be applied by them in payment of costs and expenses.

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